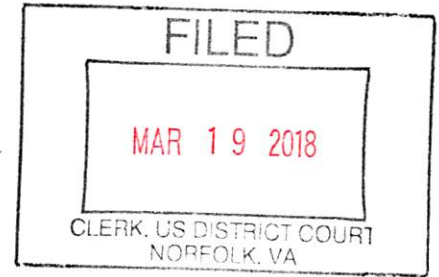


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



HAROLD A. HABECK, II, #80545-083,

Petitioner,

v.

ACTION NO. 2:17cv256

UNITED STATES OF AMERICA,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. Petitioner Harold A. Habeck, II, is a federal prisoner convicted in the Eastern District of Virginia, who is seeking resentencing pursuant to the United States Supreme Court case, *Dean v. United States*, 137 S. Ct. 1170 (2017). *Id.* Habeck argues that the “savings clause” in 28 U.S.C. § 2255 allows him to seek relief pursuant to section 2241 because the one-year time limit for filing for relief pursuant to section 2255 has expired and he will otherwise be unable to obtain relief. *Id.* at 1–2; *see* 28 U.S.C. § 2255(f) (noting that “[a] 1-year period of limitation shall apply to a motion under this section”).

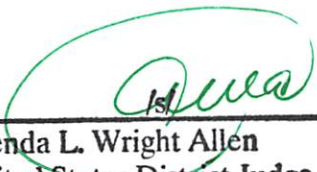
The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. In the Magistrate Judge’s Report and Recommendation filed February 8, 2018, the Court found that the “savings clause” in 28 U.S.C. § 2255(e) does not apply to Habeck’s petition, and the Court lacks

jurisdiction over the section 2241 petition. ECF No. 11. The report recommends that Habeck's petition for a writ of habeas corpus be DENIED and DISMISSED without prejudice.

Habeck filed objections to the Report and Recommendation on February 23, 2018, and filed a signed version of the objections on February 28, 2018. ECF Nos. 12, 13. The Court, having reviewed the record and examined the objections filed by Habeck to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation. It is, therefore, ORDERED that the petition for a writ of habeas corpus is DENIED and DISMISSED without prejudice.

Habeck may appeal from the Judgment entered pursuant to this Final Order by filing a notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within sixty days from the date of entry of such Judgment.

The Clerk shall mail a copy of this Final Order to Habeck and to counsel of record for Respondent.

  
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**Arenda L. Wright Allen**  
**United States District Judge**

\_\_\_\_\_  
Arenda Wright Allen  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia  
March 19<sup>th</sup>, 2018